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[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/163757

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 04, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on March 18, 2015, via telephone.

The issue for determination is whether the county agency correctly determined Petitioner's share of his medical costs.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Ken Benedum

Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is an institutionalized resident of Washington County.
2. Petitioner was sent a Notice of Decision dated January 12, 2015 that informed him that his cost share or patient liability amount was to be \$1184.68 effective February 1, 2015. An appeal was timely filed.

3. Petitioner has gross monthly income of \$3125.94. This is comprised of Social Security in the amount of \$2048.00, net of Medicare Part A & B premiums and a private employer pension payment of \$1077.94. He has no earned income.
4. Petitioner is married and his spouse in the community. She has gross monthly income of \$799.00 from Social Security, net of Medicare Part A & B premiums.
5. Monthly real estate expenses consist of a mortgage payment of \$144.90, taxes of \$216.56, insurance premiums of \$37.17 and a standard heating allowance of \$446.00. This does exceed \$786.50 by \$57.69.
6. The agency allocated \$1880.36 of Petitioner's income to his community spouse (\$2621.67 + \$57.69 - \$799.00).

### **DISCUSSION**

Medical assistance rules require institutionalized persons to "apply their available income toward the cost of their care." *Wis. Admin. Code § DHS 103.07(1)(d)*. However, both Wisconsin and federal medical assistance laws contain provisions that grant an allowance to the spouse of an institutionalized person so that she does not fall into poverty. *See Wis. Stat. § 49.455 and 42 U.S.C. § 13964-5*; also see *Medicaid Eligibility Manual (MEH), §18.1*. An institutionalized person may allocate some of his/her income to the community spouse. *MEH, §18.6.1*. The minimum monthly maintenance needs allowance (MMMNA) currently is the lesser of \$2,980.50 or \$2,621.67 plus excess shelter costs (the agency used \$2679.36 by adding the \$57.69 of excess shelter costs). *Medical Eligibility Handbook (MEH), § 18.6.2*. Excess shelter costs are shelter costs above \$786.50 per month. *Id.* These figures may increase but not until July 1, 2015. *See DHS Operations Memo # 15-05, at page 4.*

The excess shelter expense is determined as follows:

Community spouse shelter costs include the community spouse's expenses for:

- I. Rent.
- II. Mortgage principal and interest.
- III. Taxes and insurance for principal place of residence. This includes renters insurance.
- IV. Any required maintenance fee if the community spouse lives in a condominium or cooperative.
- V. The standard utility allowance established under the FoodShare program:

...

*MEH, §18.6.2.*

The cost of care for a person with a community spouse is calculated following a formula described in the *MEH at §18.6.4*. The county agency followed that formula and determined that Petitioner income is \$3125.94 and from that subtracted a \$45.00 personal needs allowance, the community spouse income allocation of \$1880.36 and a \$15.90 insurance premium to arrive at a cost share of \$1184.68. In reviewing these calculations I do not find any errors.

### **CONCLUSIONS OF LAW**

The county agency correctly determined Petitioner's share of his medical costs.

**THEREFORE, it is**

**ORDERED**

That this appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 9th day of April, 2015

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\sDavid D. Fleming  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on April 9, 2015.

Washington County Department of Social Services  
Division of Health Care Access and Accountability